IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 18277 of 2007(A)

PETITIONER:
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1. RATNAKARAN C.K.,
S/O.P.KUNHIKRISHNAN NAMBIAR, EXCISE GUARD,
EXCISE RANGE OFFICE, KEEZHOOR P.O., IRITTY,
KANNUR DISTRICT.

2. K. GANGADHARAN, S/O.GOVINDAN NAMBIAR,
EXCISE GUARD, EXCISE OFFICE, K.S.DISTILLARY,
VARAM, KANNUR DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS:
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1. STATE OF KERALA,
REP. BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM.

3. THE ASSISTANT EXCISE COMMISSIONER,
KANNUR.

4. THE KERALA PUBLIC SERVICE COMMISSION,
REP. BY THE DISTRICT OFFICER, KANNUR.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.18277 of 2007-A

Dated this the 14th day of June, 2007.

J U D G M E N T

The petitioners are Excise Guards, presently working in Kannur District. They were initially appointed in Kasargode Division which is in the erstwhile Kannur District, on the advice of the PSC. Later, the Ist petitioner was transferred to Kannur Division in 1999 and the second petitioner was transferred to Kannur Division in 2000. Both the petitioners got inter-unit transfer to Kannur isubject to the condition that their seniority will be lost and they will be joining the Kannur Division as the junior most. Ever since the said order, the petitioners are continuing in Kannur District. While so, the Assistant Excise Commissioner published the seniority list of Excise Guards from 1-1-89 to 1-9-94 by proceedings dated 6-11-2000. The petitioners were not included in that list apparently for the reason that they joined Kannur only in 1999 and 2000. Later, when the seniority list of Excise Guards on 24-7-2003 was published they were included with Rank Numbers 15 and 16 respectively. The petitioners are aggrieved by the assignments of such seniority to them. Claiming seniority from the date of advice, they have filed Exts.P8 and P9 representations before

the Excise Commissioner. In support of their claim they cited the precedent of one Mr. K.P.Hashim whose case is dealt with under Ext.P6 and P7 proceedings. They pray the second respondent may be directed to consider and pass orders on their representations mentioned above.

2. The petitioners got inter-unit transfer, on their request subject to the condition that they will loose their seniority though they joined in the Kannur unit in 1999 and 2000. Therefore, they have no legal right to claim seniority with effect from their date of advice. It is not clear from the pleadings in this writ petition what are the facts of Mr. K.P.Hashim. Even assuming that he is granted seniority wrongly, the same cannot be cited as a precedent, to press the Government to repeat the illegality. Going by the facts pleaded in their representations, the petitioners do not have any case on merit. Therefore, no purpose will be served by directing the second respondent to consider Exts.P8 and P9 representations. It will be a sheer waste of time to the second respondent and the petitioners.

Accordingly, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS